

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 FRB-03 L-03 /026 W

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R 021646Z JUL 76

FM AMEMBASSY ROME

TO SECSTATE WASHDC 8644

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PASS FDIC FOR RAIMI AND FRB

E.O. 11652: N/A

TAGS: EFIN, IT

SUBJECT: SETTLEMENT AGREEMENT BETWEEN NEW YORK FED AND
SOCIETA GENERALE RE FRANKLIN NATIONAL BANK

REF: ROME 9496

1. SUMMARY. EMBOFF HAS BEEN IN TOUCH AGAIN WITH OFFICE OF CHIEF OF CABINET OF MINISTER OF FOREIGN TRADE REGARDING NEW YORK FED/SOCIETA' GENERALE IMMOBILIARE (SOGEN) FOREIGN EXCHANGE CONTRACT SETTLEMENT AGREEMENT. FOREIGN TRADE MINISTRY SOURCE REPORTS THAT MINISTER IS AWAITING FORMAL LEGAL OPINION FROM ADVOCATE GENERAL PRIOR TO MAKING DECISION TO APPROVE OR DISAPPROVE NEW YORK FED/SOGEN AGREEMENT. LEGAL OPINION IS NOT YET READY AND FOREIGN TRADE MINISTRY SOURCE COULD NOT GUARANTEE THAT AGREEMENT WOULD EVENTUALLY BE APPROVED. IN LIGHT OF THIS CONTINUED UNCERTAINTY, EMBASSY PRESUMES THAT FDIC AND NY FED WILL MAKE THEIR OWN EVALUATION OF WHETHER OR NOT TO PROCEED WITH LEGAL ACTION AGAINST SOGEN. END SUMMARY.

2. ON JUNE 14 AND JULY 2 EMBOFF SPOKE WITH DR. MARTUSCELLI IN OFFICE OF CHIEF OF CABINET OF FOREIGN TRADE MINISTER DE MITA. MARTUSCELLI HAD BEEN BRIEFED BY DR. RUSSO (PER REFTTEL) OF DEMARCHE MADE BY EMBOFFS ON JUNE 8TH. DR. MARTUSCELLI STRESSED COMPLEXITY OF SOGEN CASE, OF WHICH NY FED/SOGEN SETTLEMENT AGREEMENT WAS ONLY ONE PART. MINISTER OF FOREIGN TRADE DE MITA HAD ASKED FOR FORMAL LEGAL OPINION FROM AVVOCATO
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DELLO STATO (ADVOCATE GENERAL). THE MINISTER DID NOT BELIEVE

THAT HE COULD MAKE A DECISION UNTIL HE HAD RECEIVED SUCH AN OPINION. DR. MARTUSCELLI REGRETTED DELAY IN OBTAINING ACTION ON NEW YORK FED/SGEN AGREEMENT BUT ARGUED THAT COMPLEX LEGAL AND ECONOMIC RAMIFICATIONS OF SOGEN-SINDONA INVOLVEMENTS HAD ONLY BECOME APPARENT FAIRLY RECENTLY. HE ACKNOWLEDGED THAT A "YES OR NO" DECISION NEEDED TO BE TAKEN AS SOON AS THE LEGAL OPINION WAS READY. WHILE TIME REQUIRED TO OBTAIN LEGAL OPINIONS FROM ADVOCATE GENERAL ARE USUALLY 3-4 MONTHS, HE HOPED THAT THERE WOULD NOT BE SUCH A LONG DELAY IN THIS CASE. IN ANY EVENT, HE COULD NOT GIVE EMBASSY ANY GUARANTEE WHETHER MINISTER'S DECISION WOULD EVENTUALLY BE POSITIVE OR NEGATIVE EVEN AFTER RECEIPT OF LEGAL OPINION.

3. EMBASSY PRESUMES THAT FDIC AND NY FED ARE AWARE THAT SOGEN MANAGEMENT HAS RECENTLY BEEN NEGOTIATING CONSOLIDATION OF SOGEN'S SHORT-TERM DEBT WITH GROUP OF ITALIAN BANKS. ITALIAN PRESS HAS ALSO SPECULATED ABOUT SOME KIND OF REORGANIZATION OF SOGEN AND ON JULY 2 IT REPORTED RESIGNATION OF PRESIDENT OF SOGEN. IT IS NOT CLEAR WHAT, IF ANY, IMPLICATIONS THESE DEVELOPMENTS MAY HAVE FOR SUCCESSFUL CONCLUSION OF SETTLEMENT AGREEMENT. PRESUMABLY FDIC'S ROME LAWYER IS KEEPING FDIC INFORMED OF THESE DEVELOPMENTS.

4. IN VIEW OF CONTINUED UNCERTAINTY ABOUT EVENTUAL APPROVAL OF THE SETTLEMENT AGREEMENT, EMBASSY ASSUMES THAT FDIC AND NY FED WILL WANT TO MAKE THEIR OWN JUDGMENT ON WHETHER OR NOT IT IS WORTH WAITING ANY LONGER BEFORE INITIATING LEGAL ACTION AGAINST SOGEN. SINCE ITALIAN PARLIAMENTARY ELECTIONS ARE NOW OVER, EMBASSY DOES NOT BELIEVE THAT LEGAL ACTIONS BY USG AGENCY NEED BE FURTHER DELAYED IF DECISION IS MADE IN PRINCIPLE TO SO PROCEED. VOLPE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENTS, BANKS, LIQUIDITY (MONETARY)
Control Number: n/a
Copy: SINGLE
Draft Date: 02 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ShawDG
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976ROME10795
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760258-0189
From: ROME
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760794/aaaadfgk.tel
Line Count: 92
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 ROME 9496
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 30 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <30 APR 2004 by izenbei0>; APPROVED <26 AUG 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SETTLEMENT AGREEMENT BETWEEN NEW YORK FED AND SOCIETA GENERALE RE FRANKLIN NATIONAL BANK
TAGS: EFIN, IT, FRANKLIN NATIONAL BANK, SOCIETA GENERALE IMMOBILIARE
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006